

REQUEST FOR COUNCIL ACTION

MEETING

DATE: 07-7-03

171 -

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-8
ITEM DESCRIPTION: Type III, Phase III Conditional Use Permit #03-26 by Williams Family Partnership and Mark & Bernard Leitzen to allow for the placement of fill in the flood prone area. The proposal is to place fill in the flood prone area to allow for the expansion of a business. The property is located east of the Shopko and Menards south stores and 28 th St. SE, and is north of TH 52.		PREPARED BY: Brent Svenby, Planner

June 24, 2003

City Planning and Zoning Commission Recommendation:

The applicant revised the plan so that a large wooded area would be avoided and there would be no excavation in the floodway. The applicant's representative also stated that the applicant was in agreement with the recommended conditions.

On June 11, 2003 the City Planning and Zoning Commission reviewed this request to allow for filling within a Flood Prone district.

Mr. Burke moved to recommend approval of Type III, Phase III Conditional Use Permit #03-26 by Williams Family Partnership and Mark and Bernard Leitzen with the staff-recommended conditions and the alternative plan presented by Mr. Allen. Mr. Ohly seconded the motion. The motion carried 8-1, with Mr. Haeusinger voting nay.

Planning Staff Recommendation:

See attached staff report dated June 6, 2003.

Council Action Needed:

1. If the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution either approving, approving with conditions, or denying this request based on the criteria of Paragraphs 61.146, 62.824 and 62.860.

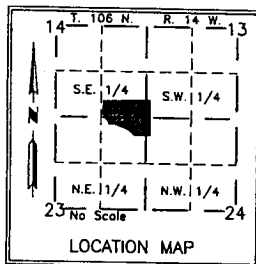
Attachments:

1. Staff Report dated June 6, 2003
2. Minutes of the June 11, 2003 CPZC Meeting

Distribution:

1. City Clerk
2. City Administrator
3. City Attorney
4. Planning Department File
5. Applicant: This item will be considered some time after 7:00 p.m. on July 7, 2003 in the Council / Board Chambers in the Government Center at 151 4th Street SE.
6. Yaggy Colby Associates

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____



(ZONED B-4)

BROADWAY COMMONS SUBDIVISION

$\Delta = 40^{\circ}01'57''$
CHAZ = $33^{\circ}43'23''$
R = 283.00
L = 183.42

$\Delta = 45^{\circ}00'00''$
CHAZ = $33^{\circ}49'07''$
R = 217.00
L = 170.43

EXISTING SITE SUMMARY

BUILDING AREA:	140,847 S.F.
IMPERVIOUS SURFACE AREA:	520,501 S.F.
GREENSPACE AREA:	53,122 S.F.
EXISTING SITE AREA:	573,179 S.F.
TOTAL SITE ACRES:	13.16 ACRES
BUILDING COVERAGE: 24%	
GROSS FLOOR AREA = 140,847 S.F.	FLOOR AREA RATIO = .24

NOTE: CALCULATIONS TAKE INTO ACCOUNT THE NEWLY DEDICATED UNDOT R.O.W.

PROPOSED SITE SUMMARY

NEW WAREHOUSE:	22,425 S.F.
TOTAL BUILDING AREA:	163,272 S.F.
TOTAL IMPERVIOUS SURFACE AREA:	614,405 S.F.
TOTAL GREENSPACE AREA:	116,713 S.F.
TOTAL SITE AREA:	731,118 S.F.
TOTAL SITE ACRES:	16.83 ACRES
BUILDING COVERAGE: 28.9%	
GROSS FLOOR AREA = 163,272 S.F.	FLOOR AREA RATIO = .229

NOTE: CALCULATIONS TAKE INTO ACCOUNT THE NEWLY DEDICATED UNDOT R.O.W.

CHANGE TABLE STORAGE AND WAREHOUSING FACILITIES ARE ALL THAT IS BEING ADDED TO THE WAREHOUSE SITE. THEREFORE NO NEW PARKING STALLS OR CALCULATIONS ARE REQUIRED.

ZONING CLASSIFICATION:	M-1
EXTENSION LIGHTING REGULATION STANDARD:	D
SCENIC REGULATION STANDARD:	D
EXTENSION STORAGE REGULATION STANDARD:	1.8
SITE LOCATION REQUIREMENT:	VE
BUFFER YARD REQUIREMENT:	
SETBACK REQUIREMENTS:	
REQUIRED FRONT YARD:	35 FEET
MIN. REQUIRED SIDE YARD:	5 FEET
MIN. REAR YARD:	10 FEET
MIN. SUM OF SIDE YARDS:	5 FEET
LANDSCAPE / GREENSPACE AREA REQUIREMENT:	5%
FLOOR AREA RATIO / TYPE I USE:	.30
HEIGHT REQUIREMENTS:	NO LIMIT

LEGAL DESCRIPTION

LOT 1, BLOCK 1
MENARDS SOUTH SUBDIVISION
CLAYTON COUNTY, MINNESOTA

$\Delta = 89^{\circ}35'56''$
CHAZ = $31^{\circ}31'09''$
R = 283.00
L = 442.55

REVISED

UNPLATTED
(ZONED M-1)

OWNER

NEWARK
3000 SOUTH WINDHURST
ROCHESTER, MN 55901
952-346-0446

SYMBOLS LEGEND

- NEW MENARDS PROPERTY
146,268 S.F. (3.37 ACRES)
NOTE: ALL S.D.P. WITHIN THIS AREA
IS TO BE MAINTAINED.
- NEW PROPOSED 30TH ST. SE. R.O.W.
63,394 S.F. (1.43 ACRES)
NOTE: TO BE MAINTAINED IN THE REPLAT
OF MENARDS SOUTH SUBDIVISION

REVISED SITE PLAN

SCALE IN FEET
0 20 40 80

MENARDS SOUTH EXPANSION

ROCHESTER, MN

SITE PLAN

DATE: 06-02-03
DRAWN BY: M.F.F.
CHECKED BY: D.R.A.
REVISIONS:

C1

REMEDIATION • AIR QUALITY
 SURVEYS • PLANNED
 LANDSCAPE ARCHITECTURE
 717 THIRD AVENUE SOUTHEAST
 BOSTON, MASSACHUSETTS 02101
 TEL: 617-552-3333
 FAX: 617-552-3333
 WWW.INFOVACUUM.COM

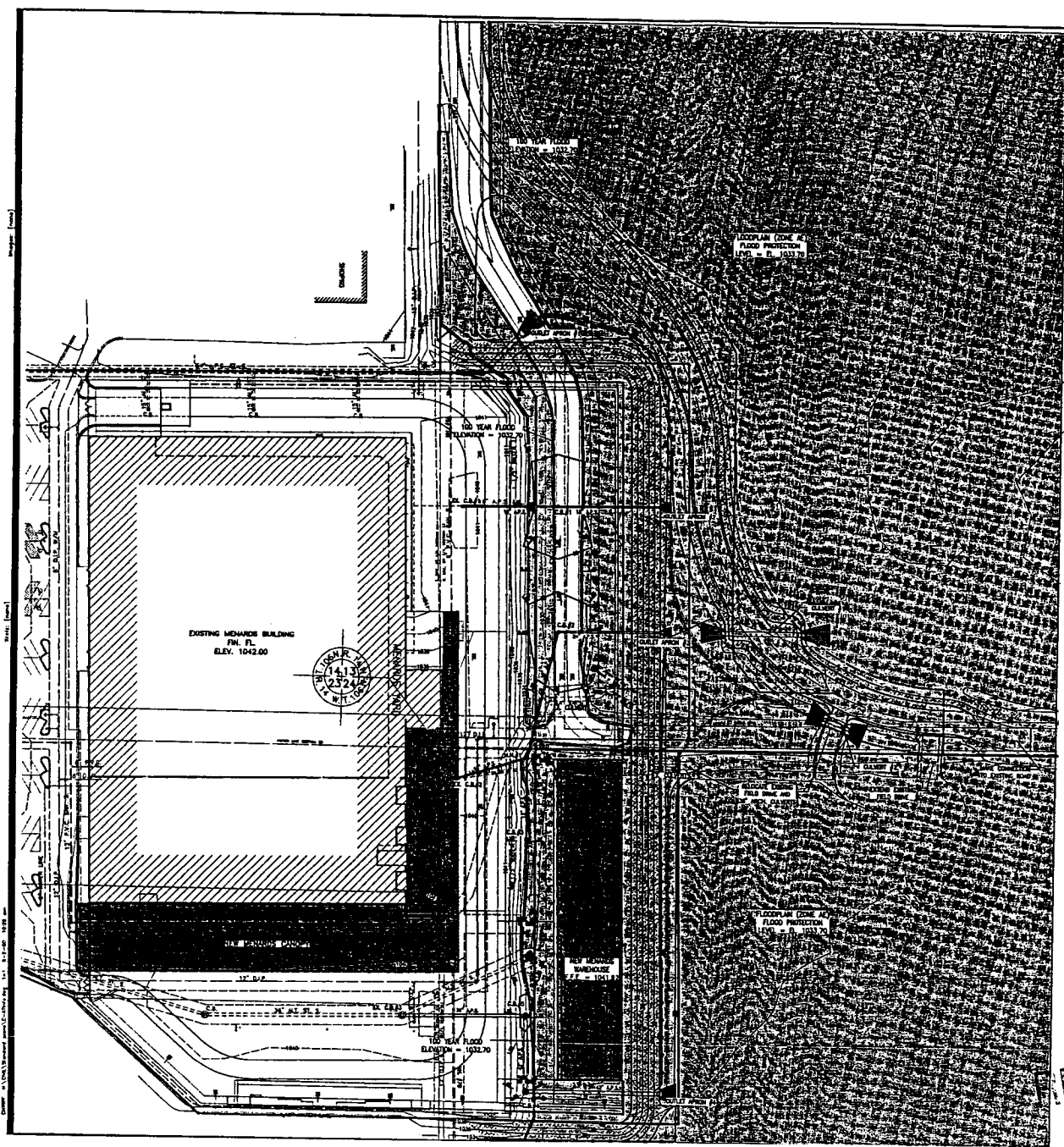
PLANSHEET 2	DA
-------------	----

MENARDS SOUTH EXPANSION
ROCHESTER, MN
GRADING AND EROSION CONTROL PLAN

PROJECT
INSTRUMENTS
COMPUTER
DATE
DRAWN BY
CHECKED BY
APPROVED

8200
B200GRAD02 DWG
06-02-03
M S F
O R A










C2



OWNER

MEMBER
3000 SOUTH BRADLEY
ROCKFORD, ILL 60004
815-398-4365

SYMBOLS LEGEND

-  DRAINAGE ARROWS
 EXISTING CONTOURS
 PROPOSED CONTOURS
 SALT PIPE
 EROSION CONTROL BLANKET
AS PER MAND. SPEC. 306B.1,
CATEGORY 2
 STABILIZED VEHICLE DIRT
 FLOODPLAIN (ZONE A or ON FEMA MAP)
 TURF REINFORCEMENT MAT
AS PER MAND. SPEC. 306B.2
 METAL AS PER CITY DEP. 2-86

AREA CALCULATIONS

TOTAL PROJECT AREA:	415,961 S.F.
TOTAL IMPERVIOUS AREA:	157,766 S.F.
TOTAL PERVIOUS AREA:	258,195 S.F.

8,010 CYDS OF FILL ADDED TO THE FLOODPLAIN
AT OR BELOW ELEVATION 1032.70 (100-YEAR FLOOD)

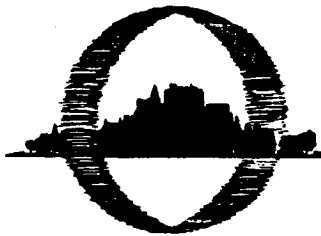
CONSTRUCTION NOTES

- 12 EXISTING WILDED AND SERVICE LOCATIONS SHALL BE VERIFIED IN THE FIELD PRIOR TO CONSTRUCTION.
- 13 ALL CONSTRUCTION SHALL BE COMPLETED IN ACCORDANCE WITH STATE AND FEDERAL REQUIREMENTS.
- 14 GOOD IMPLEMENTATION, POSITIVE MONITORING, AND THE MAINTENANCE OF ALL CONSTRUCTION ARE THE CONSTRUCTION IS RESPONSIBLE FOR MAINTAINING ALL CONSTRUCTION CONTROLLED AREAS UNTIL FURTHER RELOCATION IS ESTABLISHED.
- 15 EROSION AND POLLUTION CONTROL MEASURES SHALL BE IN ACCORDANCE WITH STATE AND LOCAL REQUIREMENTS.
- 16 SET REFERENCE SPEC. FOR ALL CONSTRUCTIONS SETBACKS OR IMPROVEMENTS LOCATED ON THE PLAN. THE CONSTRUCTION IS RESPONSIBLE FOR REVIEWING THE DETAILS PRIOR TO BIDS.
- 17 THE CONTRACTOR TO OBTAIN A POWER STRONG RELOCATION PERMIT FROM THE UPCA.
- 18 ALL SETBACK AREAS INDICATED SHALL BE MAINTAINED HERE FOR AS PER INDOT AND C&S.
- 19 ALL SETBACK AREAS INDICATED SHALL BE MAINTAINED HERE FOR AS PER INDOT AND C&S.
- 20 ALL SETBACK AREAS INDICATED SHALL BE MAINTAINED HERE FOR AS PER INDOT AND C&S.
- 21 ALL SETBACK AREAS INDICATED SHALL BE MAINTAINED HERE FOR AS PER INDOT AND C&S.

STORM SEWER CONSTRUCTION NOTES

- [illegible]

RECEIVED JUN - 3 2006
-GRADING AND EROSION CONTROL PLAN
ROCHESTER PLANNING DEPARTMENT

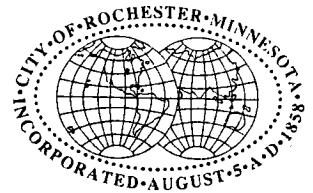


ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF
Olmsted

www.olmstedcounty.com/planning



TO: City Planning & Zoning Commission

FROM: Brent Svenby, Planner

DATE: June 6, 2003

RE: Type III, Phase III Conditional Use Permit #03-26 by Williams Family Partnership and Mark & Bernard Leitzen to allow for the placement of fill in the flood prone area and excavation in the floodway. The proposal is to place fill in the flood prone area and excavation in the floodway to allow for the expansion of a business. The property is located east of the Shopko and Menards south stores and 28th St. SE, and is north of TH 52.

Planning Department Review:

Applicant: Williams Family Partnership
41050 95th Street
Blue Earth, MN 56013

Mark & Bernard Leitzen
309 60th Avenue SW
Rochester, MN 55902

Consultant: Yaggy Colby Associates
Attn: Dale Allen
717 Third Avenue SE
Rochester, MN 55904

Requested Action: The applicant is requesting a Type III, Phase III conditional use permit to allow for the placement of fill in the flood prone area and excavation in the floodway. The proposal is to place fill in the flood prone area and excavation in the floodway to allow for the expansion of a business.

Location of Property: The property is located east of the Shopko and Menards south stores and 28th St. SE, and is north of TH 52.

Zoning: The Leitzen property is zoned M-1 (Mixed Commercial – Industrial) District while the Williams property has petitioned to zone the property to the M-1 (Mixed Commercial-Industrial) zoning district. The CPZC has recommended approval of the zone change petition.

Referral Comments: Public Works
RPU Water Division
Planning Department - Wetlands



176

Analysis:

The applicant is proposing to place fill within the flood prone area to allow for the expansion of the Menards storage yard and the realignment of 30th Street SE. A warehouse building would be constructed within the storage yard.

The applicant is also proposing to excavate (approximately 2 feet) a small portion of land in the floodway and flood prone to accommodate the lost of flood storage because of the filling work being proposed to construct the storage yard and the realignment of 30th Street SE.

Wetlands are present on the property and MnDOT has completed a wetland delineation. The applicant is responsible for obtaining the necessary permits for any work on the property that deals with the wetlands. No permits will be issued until the applicant has completed and submitted the necessary information to the LGU and approval is granted.

When deciding on a Conditional Use Permit in any flood district, the standards of Sections 61.146 and 62.824 shall be considered. These sections are attached to the staff report. In addition to Sections 61.146 and 62.284, Section 62.860 needs to be complied with.

Section 62.860 of the LDM states that "the deposition of any fill or spoil from dredging of sand and gravel operations, the construction of any structure, or the grading or paving of any areas shall require certification by a registered engineer or hydrologist that the following conditions have been met:

1. Fill deposited in the flood prone area shall be no more than the minimum amount necessary to conduct the use.
2. No net loss of capacity for surface storage of flood waters shall result from the activity.
3. The effect of such activities in the flood prone area shall not result in an increase in erosion potential on the site.

Planning Commission Action Needed:

Conditional use permits of this sort require Council approval. The Planning Commission should make a recommendation to approve, approve with conditions, or deny this request to be forwarded to the Council. The Council will hold a public hearing at a later date.

Staff Recommendation:

The applicant submitted a letter from a professional engineer that certifies that the plans dated May 15, 2003 meet the three conditions of Section 62.860.

It does not appear as though the proposed fill activity would result in a loss of storage of flood waters. The applicant is proposing to excavate approximately 8,037 cubic yards within the flood prone area and floodway to accommodate for the lost of storage (approximately 8,010 cubic yards) because of fill being placed in the flood prone area. In addition, the applicant will be required to obtain approval and permits from the City for grading and drainage, which will also address erosion control. The proposed fill within

the flood prone district and excavation within the floodway appears to be minimal. Staff recommends approval of the fill activity within the flood prone district as proposed on plans dated received June 3, 2003. In order to ensure compliance with Sections 61.146 and 62.824, staff recommends the following conditions:

- 1. The applicant shall receive approval of the grading and drainage plan prior to any grading activity taking place on the property. The applicant shall demonstrate that the proposed fill will not increase the flood risk to abutting and downstream properties.**
- 2. Prior to the issuance of a grading permit for the property, the applicant shall demonstrate to the LGU that the storage area being created will not affect the hydrology functions of the adjacent wetlands.**
- 3. Prior to development of the property, the site plan shall be reviewed through the site development plan review process. During this review the proposed use will be reviewed to ensure that it meets the standards of the zoning district.**
- 4. If 28th St SE is to be used as a haul road for transportation of excavated and fill material, the applicant will be required to post a \$25,000.00 surety, in a form accepted by the City Engineer, to be used by the City to repair any damages that may occur to 28th St SE.**

Attachments:

1. Location Map
2. Site Plan
3. Referral Comments
4. Letters from Yaggy Colby Associates

Note:

- Relocation of public utilities (Sanitary Sewer, Storm Sewer and/or Watermain) and reconstruction of 28th St SE / 30th St SE will require the execution of a City-Owner Contract.
- The existing 12" public water main must be relocated to the future realignment of 30th Street SE. The realignment must be approved to the RPU Water Division.
- More detailed comments will be provided during the development review process

178

61.145 **Matters Under Consideration:** The review of a conditional use is necessary to insure that it will not be of detriment to and is designed to be compatible with land uses and the area surrounding its location; and that it is consistent with the objectives and purposes of this ordinance and the comprehensive plan.

61.146 **Standards for Conditional Uses:** The zoning administrator, Commission, or Council shall approve a development permit authorizing a conditional use unless one or more of the following findings with respect to the proposed development is made:

- 1) provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.
- 2) The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.
- 3) The provision for on-site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.
- 4) The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.
- 5) The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.
- 6) The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.
- 7) In cases where a Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this paragraph.
- 8) The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying zoning district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

62.824 **Conditional Use Permits - Standards for Approval:** When deciding on Conditional Use Permits in any of the flood districts, the following factors, in addition to the standards of Paragraph 61.146 shall also be considered:

- 1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- 2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary condition.

- 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- 5) The importance of the services provided by the proposed facility to the community.
- 6) The need for a waterfront location for the facility.
- 7) The availability of alternative locations not subject to flooding for the proposed use.
- 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- 10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- 12) Such other factors which are relevant to the purposes of Paragraph 62.800.

62.860 CONSTRUCTION STANDARDS IN THE FLOOD PRONE DISTRICT

The requirements applicable in the Flood Fringe District, as defined in Section 62.840 shall apply in the Flood Prone District and, in addition, the deposition of any fill or spoil from dredging of sand and gravel operations, the construction of any structure, or the grading or paving of any areas shall require certification by a registered professional engineer or hydrologist that the following conditions have been met:

- 1) Fill deposited in the flood prone area shall be no more than the minimum amount necessary to conduct the use.
- 2) No net loss of capacity for surface storage of flood waters shall result from the activity.
- 3) The effect of such activities in the flood prone area shall not result in an increase in erosion potential on the site.

CUP #03-26

28 ST SE

site

site

182

WETLAND COMMENTS FOR DEVELOPMENT APPLICATIONS

Application Number: Conditional Use Permit #03-26 by the Williams Family Partnership

- ☐ No hydric soils exist on the site based on the Soil Survey
- ☐ Hydric soils exist on the site according to the Soil Survey. The property owner is responsible for identifying wetlands on the property and submitting the information as part of this application.
- ☐ A wetland delineation has been carried out for the property and is on file with the Planning Department.
- ☐ A wetland delineation is on file with the Planning Department and a No-Loss, Exemption, or Replacement Plan has been submitted to the Planning Department.
- ☐ A wetland related application has been approved by the City. This plan incorporates the approved wetland plan.
- ☐ No hydric soils exist on the property based on the Soil Survey. However, due to the location in the landscape, the property owner should examine the site for wetlands. The property owner is responsible for identifying wetlands.
- ☒ Other or Explanation:

The MNDOT has completed a wetland delineation for this property.

Wetlands are present on the property. The property owner will be responsible for obtaining the necessary wetland permit. No information has been submitted by the applicant as of this date. No permits will be issued until the applicant has completed and submitted the information and necessary application.



183 -

May 27, 2003

Rochester-Olmsted
CONSOLIDATED PLANNING DEPARTMENT
2122 Campus Drive SE
Rochester, MN 55904-7996

REFERENCE: Type III, Phase III Conditional Use Permit #03-26 by Williams Family Partnership and Mark & Bernard Leitzen to allow for the placement of fill in the floodprone area and excavation in the floodway to allow for the expansion of a business.

Dear Ms. Garness:

Our review of the referenced application is complete and our comments follow:

1. As a part of the Menards expansion and the filling of the current 30th St. SE area, the existing 12" public water main must be relocated (The preliminary layout is shown on sheet C1).

Please contact us at 507-280-1600 if you have questions.

Very truly yours,

Donn Richardson
Water

C: Doug Rovang, RPU
Mike Engle, RPU
Mark Baker, City Public Works
Vance Swisher, Fire Prevention
Wade Dumond, Yaggy Colby Associates

184

ROCHESTER

— Minnesota —

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

DATE: 6/2/03 **REVISED 6/5/03**

The Department of Public Works has reviewed the application for CUP#03-26 for the proposed Menards South Expansion / 30th St SE Realignment. The following are Public Works comments on this proposal: **New comment is shown in BOLD, while the prior comment that has been addressed by the revised plan is indicated with STRIKETHROUGH.**

1. ~~The proposed centerline radius of the 28th St SE / 30th St SE realignment does not meet the radius previously discussed with the applicant's consulting engineer (Yaggy Colby). The CUP plan should be revised to accommodate a 250 ft centerline radius. A revised Grading Plan will be required, showing the correct centerline radius.~~
2. The applicant shall demonstrate that the proposed fill will not increase the flood risk to abutting and downstream properties.
3. Relocation of public utilities (Sanitary Sewer, Storm Sewer and/or Watermain) and reconstruction of 28th St SE / 30th St SE will require the execution of a City-Owner Contract.
4. **If 28th St SE is to be used as a haul road for transportation of excavated and fill material, the applicant will be required to post a \$25,000.00 surety, in a form accepted by the City Engineer, to be used by the City to repair any damages that may occur to 28th St SE.**

The following addition comments are not specifically related to the CUP request, but will impact how the property is developed. More detailed comments will be provided during the development review process.

1. The yard entrance shall match the existing parking / driveway isle.
2. The Owner shall execute a revocable permit for construction of the proposed canopy over the sanitary sewer. Access to the sanitary sewer shall be maintained at all times and no storage of materials, etc. will be permitted on the sewer easement area.
3. The Owner will be required to dedicate the new ROW for 30th St SE, at no cost to the City, prior to any grading / construction activities that would impact the existing street.
4. The Owner will be required to petition for the vacation of the existing 30th St SE segment that would be impacted by this proposed project.
5. On-site Stormwater Management will be required of the Owner for any increase in impervious surface, or change in the natural drainage pattern for the Property.
6. Development related charges will be addressed through the development review process for this Property.

SURVEYORS



LANDSCAPE ARCHITECTS

PLANNERS

May 15, 2003

Mr. Brent Svenby
Rochester/Olmsted County Planning Dept.
2122 Campus Drive SE
Rochester, MN 55904

**RE: Type III, Phase III Conditional Use Permit
Fill in Flood Prone Area for the Menards Expansion**

Dear Mr. Svenby:

I have reviewed the plans for the filling in of the flood prone area for the Menards expansion and the floodplain adjustment plan on the adjoining Williams property. The fill placed below the base flood elevation of 1032.7 was calculated to be 8,010 cubic yards. The floodplain adjustment plan shows excavation in the flood prone area of 8,037 cubic yards. I hereby certify the following statements:

1. The fill deposited in the Flood Prone Area is no more than the minimum amount necessary to conduct the use.
2. The site work indicated on the plans creates a no net loss of capacity for surface storage of flood waters as a result of this project.
3. The effect of such activities resulting from this construction/development will not result in an increase in erosion potential on the site.

Sincerely,

YAGGY COLBY ASSOCIATES, INC.

Dale Allen, P.E.

DA/ws
YCA #8200

ROCHESTER OFFICE

717 Third Avenue S

Rochester, MN 5590

507-288-646

Fax 507-288-505

MPLS/ST PAUL OFF

651-681-91

MASON CITY OFF

641-424-6

DELAFIELD OFF

262-646-

Equal Opportunity Employer

yaggy.com

154
05/14/03
YCA #8200
DA

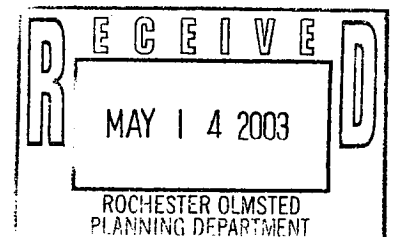
**WILLIAMS FAMILY PARTNERSHIP-LITZEN PROPERTY
SITE DEVELOPMENT
CONDITIONAL USE SUBMITTAL**

Menards proposes to purchase property from the Williams Family Partnership and the Leitzens to expand their storage yard and construct a warehouse building. This construction will require that 30th Street be relocated further east. This property is located in the flood prone area.

A conditional use permit is being applied for in accordance with Sections 62.820, 62.824 and Section 62.834 of the City of Rochester Zoning Ordinance and Land Development Manual for filling in the flood prone area.

Approximately 3.03 acres of the proposed project is in the flood prone area. The floodway and flood fringe areas depicted on the plan were derived from the Flood Insurance Rate Map (FIRM), Panel 302, Map number 27109C0302 E. The base flood elevation is shown as 1032.7. The flood protection level is than at elevation 1033.7. The Floodway as-depicted will not be impacted as a result of this proposed development.

The site, as designed, minimizes the amount of fill to be placed within the flood prone area to provide for the Menards expansion and relocation of 30th Street SE. Approximately 8,010 cubic yards of fill are proposed to be placed in the flood plain below the base flood elevation. A site is shown on the Williams property where an excavation will be made to replace the 8,010 cubic yards of storage displaced by placing fill in the floodplain. There will be no net loss of capacity for surface storage of floodwaters resulting as a result of this project. Also, it is anticipated that there will not be an increase in erosion potential on this. All disturbed area will be seeded and mulched. Slopes 3:1 and steeper will be cover with a erosion control fiber blanket. The site will also be protected during construction activities with erosion control measures during the construction phase.



187

CONDITIONAL USE SUBMITTAL

May 14, 2003

Page 2

The following statements relate to how the applicant intends to meet the "Standards for Approval" Section 62.824 of the City of Rochester Zoning Ordinance.

62.824 Conditional Use Permits – Standards for Approval: When deciding on Conditional Use Permits in any of the flood districts, the following factors, in addition to the standards of Paragraph 61.146 shall also be considered:

- 1) *The danger to life and property due to increased flood heights or velocities caused by encroachments.*

No danger to life or property is anticipated due to increased flood heights and velocities. This project will not significantly increase flood heights or velocities due to the small size of the project site. The storage capacity is being replaced by creating a excavation on the Williams property equal to the amount of fill being placed in the flood prone area.

- 2) *The danger that materials may be swept onto other lands or downstream to the injury of others.*

All stored materials will be above the flood protection level.

- 3) *The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary condition.*

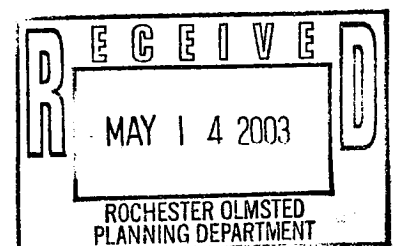
No new public facilities are proposed.

- 4) *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.*

The proposed building and storage yard for the Menards expansion will be filled 8-9 feet above the flood protection level.

- 5) *The importance of the services provided by the proposed facility to the community.*

Provides for expansion of the City retail and tax base.



188

CONDITIONAL USE SUBMITTAL

May 13, 2003

Page 3

- 6) *The need for a waterfront location for the facility.*

Not applicable

- 7) *The availability of alternative locations not subject to flooding for the proposed use.*

No other land is available to Menards for expansion.

- 8) *The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.*

The compatibility of the proposed use is consistent with the existing development and underlying zoning district.

- 9) *The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.*

In compliance to the best of our knowledge.

- 10) *The safety of access to the property in times of flood for ordinary and emergency vehicles.*

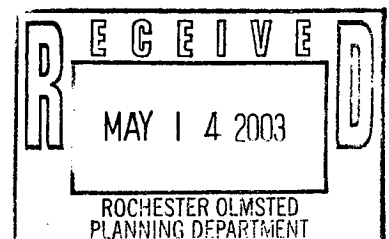
Access to the site during times of flood will be maintained for emergency vehicles due to the fact the site will be raised above the flood protection level.

- 11) *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.*

The expected heights, velocities, duration, rate of rise and sediment transport of the floodwaters is not anticipated to increase as a result of this project.

- 12) *Such other factors which are relevant to the purposes of Paragraph 62.800.*

No other factors anticipated.



189-

**MINUTES OF THE
CITY OF ROCHESTER PLANNING COMMISSION
2122 CAMPUS DRIVE SE – SUITE 100
ROCHESTER MN 55904**

Minutes of the regularly scheduled meeting of the City Planning and Zoning Commission held on Wednesday, June 11, 2003, at 7:00 p.m. in the Council/Board Chambers of the Government Center, 151 4th Street SE, Rochester, MN.

Members Present: Ms. Lisa Wiesner, Chair; Mr. Michael Quinn, Vice Chair; Ms. Mary Petersson; Ms. Leslie Rivas; Mr. Ivahn Dockter; Mr. Randy Staver; Mr. Robert Haeussinger; Mr. James Burke; and Mr. Paul Ohly

Members Absent: None

Staff Present: Ms. Mitzi A. Baker and Ms. Jennifer Garness

Other City Staff Present: Ms. Pat Alfredson, City Attorney

ADMINISTRATIVE BUSINESS:

Mr. Quinn made a motion to approve the minutes of May 28, 2003, as written. Mr. Haeussinger seconded the motion. The minutes from May 28, 2003 were approved unanimously.

Ms. Petersson made a motion to approve the agenda, adding a discussion item at the end of the meeting regarding initiating a text amendment. Mr. Dockter seconded the motion. The motion carried unanimously.

CONTINUED ITEMS:

Type III, Phase II Conditional Use Permit #03-12 by Southern Woods Development LLC to allow for the placement of fill in the flood prone district. The proposal is to grade and place fill within the flood prone district. The applicant is also requesting approval of a Substantial Land Alteration to permit site grading that will modify grades by more than 10 feet on portions of the property. The property is located south of 48th Street SW, west of TH 63 and east of 11th Avenue SW.

Ms. Petersson moved to continue Type III, Phase II Conditional Use Permit #03-12 by Southern Woods Development LLC to June 25, 2003. Mr. Quinn seconded the motion. The motion carried 9-0.

PUBLIC HEARINGS:

Type III, Phase III Conditional Use Permit #03-26 by Williams Family Partnership and Mark & Bernard Leitzen to allow for the placement of fill in the floodprone area and excavation in the floodway. The proposal is to place fill in the floodprone area and excavation in the floodway to allow for the expansion of a business. The property is located east of the Shopko and Menards south stores and 28th St. SE, and is north of TH 52.

Ms. Mitzi A. Baker presented the staff report, dated June 6, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Ms. Baker indicated that the application was intended to only be reviewed by the Commission and not be held as a public hearing. However, it was accidentally published, therefore, the item would be conducted as a public hearing.

Ms. Petersson asked how there wouldn't be loss of storage.

Ms. Baker responded that there is a water table and that any excavation above the water table provides a storage area for flood waters. This is the only area that they can count.

The applicant's representative, Mr. Dale Allen of Yaggy Colby Associates, addressed the Commission. He explained that they would be replacing 1:1 storage for what is being filled.

Ms. Wiesner asked if the applicant was in agreement with the staff-recommended conditions.

Mr. Allen responded yes. However, he asked if he could provide an alternative plan for the flood plain adjustment. He showed the wooded area and proposed boundaries.

Ms. Baker stated that the first condition would cover his concern. She indicated that a revised plan was submitted on Tuesday. However, the intention was unclear. It was unknown that the applicant wanted to submit an amended plan.

Mr. Haeussinger expressed concern of where the water would be stored and the capacity of the area.

Discussion ensued regarding where the water would be stored and what the capacity would be.

Ms. Petersson stated that the applicant would be replacing permeable soil with non-permeable surface which would mean that they would need to have a larger storage capacity than a 1:1 ratio.

Ms. Wiesner asked if the runoff would be taken into consideration separately when it is developed.

Mr. Allen responded yes.

Mr. Burke complemented the plan, considering the trees being saved.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Mr. Burke moved to recommend approval of Type III, Phase III Conditional Use Permit #03-26 by Williams Family Partnership and Mark & Bernard Leitzen with the staff-recommended conditions and a recommendation that the alternative plan presented by Mr. Allen be adopted. Mr. Ohly seconded the motion. The motion carried 8-1, with Mr. Haeussinger voting nay.

Proposed Special District #14 to be known as Pebble Creek and General Development #209 to be known as Pebble Creek by Western Walls, Inc. The Applicant is proposing to